



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

MATTER OF Q-T-, INC.

DATE: NOV. 29, 2016

APPEAL OF NEBRASKA SERVICE CENTER DECISION

PETITION: FORM I-140, IMMIGRANT PETITION FOR ALIEN WORKER

The Petitioner, a wireless communications business, seeks to employ the Beneficiary as a senior systems engineer. It requests classification of the Beneficiary as a member of the professions holding an advanced degree under the second preference immigrant classification. *See* Immigration and Nationality Act (the Act) section 203(b)(2), 8 U.S.C. § 1153(b)(2). This employment-based immigrant classification allows a U.S. employer to sponsor a professional with an advanced degree for lawful permanent resident status.

The company that filed the labor certification also filed a Form I-140 petition on behalf of this Beneficiary on December 18, 2014, and that petition was approved on December 22, 2014. On June 26, 2015, the Petitioner filed the current petition and indicated that it was seeking to amend the previously approved petition based on a successor-in-interest relationship. The Director, Nebraska Service Center, denied the petition on August 11, 2015. The Director determined that the Petitioner had not established that it is a successor-in-interest to the company that filed the labor certification and denied the petition.

The matter is now before us on appeal. The Petitioner asserts that the Director erred by discounting evidence that the Petitioner was a successor-in-interest to the original employer based on the fact that the Beneficiary had been transferred as part of a corporate restructuring. Upon *de novo* review, we will sustain the appeal.

Section 203(b)(2) of the Act, 8 U.S.C. § 1153(b)(2), provides immigrant classification to members of the professions holding advanced degrees. *See also* 8 C.F.R. § 204.5(k)(1). To be eligible for approval, a Beneficiary must have all the education, training, and experience specified on the labor certification as of the petition's priority date. *See Matter of Wing's Tea House*, 16 I&N 158 (Act. Reg. Comm. 1977). The priority date of the petition is August 10, 2009, which is the date the labor certification was accepted for processing by the Department of Labor. *See* 8 C.F.R. § 204.5(d).

Upon review of the entire record we conclude that the Petitioner is more likely than not the successor in interest to the employer who filed the labor certification. The Beneficiary may be classified as a professional with an advanced degree because the job offered may be classified as such and his credentials match the terms of the labor certification. *See* 8 C.F.R. § 204.5(k)(1). Accordingly, the petition is approved under section 203(b)(2) of the Act, 8 U.S.C. § 1153(b)(2).

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The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The Petitioner has met that burden.

ORDER: The appeal is sustained.

Cite as *Matter of Q-T-, Inc.*, ID# 81400 (AAO Nov. 29, 2016)